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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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55409 7590 02/04/2009 MATHEW J. TEMMERMAN 423 E. STREET DAVIS, CA 95616				
EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/930,788

Applicant(s)

HOOD ET AL.

Examiner

VANEL FRENEL

Art Unit

3687

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4-6, 8, 13-16, 19-21, 23-25, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4-6, 8, 13-16, 19-21, 23-25, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/3508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Amendment filed 10/08/08. Claims 1, 3, 7, 9-12, 17-18, 22, 26-34 and 37-40 have been cancelled. Claims 2, 4-6, 19-21, 23-25 and 35-36 have been amended. Claims 2, 4-6, 19-21, 23-25 and 35-36 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 4, 5-6, 8, 13-16, 19, 20-21, 23-25, and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (6,168,563) in view of Campbell et al (6,047,259) and further in view of Kehr et al. (2003/0036683).

As per claim 2, Brown discloses a system for gathering and managing patient medical data in which a handheld computing device (See Brown, Fig.1, Co1.17, lines 3-42), has a computer-readable medium stored thereon a plurality of instruction sequences, which, when executed by a processor, cause the process to perform the steps of executing a fist module for gathering patient medical information (See Brown, Fig.16; Col.28, lines 39-67), wherein said first module displays a plurality of customized template based data entry screens (See Brown, Col.28, lines 39-67).

Brown does not explicitly disclose that the system having creating said customized template based data entry screens from template based data entry screen data received from a template manager having a means for substantially customizing said customized template based data entry screens data for use by said first module; wherein at least one of said customized template based data entry screens correlates a set of modifiers to a body part; and wherein said customized template based data entry screen data directs the function of said first module.

However, these features are known in the art, as evidenced by Campbell. In particular, Campbell suggested that the system having creating said customized template based data entry screens from template based data entry screen data received from a template manager having a means for substantially customizing said customized template based data entry screens data for use by said first module (See Campbell, Col.4, lines 19-67); wherein at least one of said customized template based data entry screens correlates a set of modifiers to a body part (See Campbell, Fig.7, Col.15, lines 55-67 to Col.16, line 12); and wherein said customized template based data entry screen data directs the function of said first module (See Campbell, Col.4, lines 19-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Campbell within the system of Brown with the motivation of providing the system software displays interactive user interface screens for conducting an interactive medical exam, generating diagnoses of abnormal observations, and managing a treatment protocol (See Campbell, Col.1, lines 62-67).

Brown and Campbell disclose all the limitations above. However, the combination of Brown and Campbell does not explicitly disclose a means for receiving medical data through remote transmission, and a means for creating a natural language report and a data point-based searchable database from said medical information, said natural language report having syntax and structure.

However, this feature is known in the art, as evidenced by Kehr. In particular, Kehr suggested that the system has a means for receiving medical data through remote transmission, and a means for creating a natural language report and a data point-based searchable database from said medical information, said natural language report having syntax and structure (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the teachings of Campbell and Brown with the motivation of providing a number of enhanced features including: mass customization of medical protocols; time-and-event driven medical treatment plan; risk-stratified triage and medical intervention system; self-selected synchronized database-linked medical monitoring system; pharmacoeconomic analysis system; creation and self-selection of musical alarms for monitoring; streaming video and pictorial representation on monitoring device; a system for promoting enhanced validity in pharmaceuticals and drug package inserts; a system for mass customizing information device functions and features; and a dynamic, mass customizable, interactive screen and voice system for monitoring (See Kehr, Page 1, Paragraph 0006).

As per claim 4, Brown discloses the system wherein said template manager additionally comprises a plurality of templates for creating said customized template based data entry screens (See Brown, Co1.34, lines 20-64).

The motivation for combining the respective teachings of Brown, Campbell, and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

As per claim 5, Campbell discloses the system wherein said template manager additionally comprises means for editing all aspects of said customized template based data entry screens, said syntax and structure of said natural language report and said data-points (See Campbell, Col.16, lines 22-30).

The motivation for combining the respective teachings of Brown, Campbell, and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

As per claim 6, Campbell discloses the system wherein said first module additionally comprises means to delete at least one of said customized template based data entry screens (See Campbell, Col.15, lines 55-67).

The motivation for combining the respective teachings of Brown, Campbell, and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

As per claim 8, Campbell discloses the system wherein said template manager has means for customizing navigation between said plurality of customized template based data entry screens (See Campbell, Col.15, lines 6-64).

The motivation for combining the respective teachings of Brown, Campbell, and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

As per claim 13, Kehr discloses the system additionally comprising a portable printer for printing out said natural language report (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132).

The motivation for combining the respective teachings of Brown, Campbell, and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

As per claim 14, Brown discloses the system wherein said template manager has a means for flagging certain data items as relevant for specific purposes (See Brown, Co1.12, lines 4-49).

As per claim 15, Kehr discloses the system wherein said searchable database has a plurality of items, and wherein each such item has a unique identifier, and wherein said customized information further comprises said unique identifier (See Kehr, Page 6, Paragraph 0083).

The motivation for combining the respective teachings of Brown, Campbell, and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

As per claim 16, Brown discloses a software application for gathering and managing patient medical data, comprising: a first module for gathering patient medical information on a handheld computing device (See Brown, Fig.1, Col.17, lines 3-42), said first module having a plurality of customized template based data entry screens (See Brown, Fig.16; Col.28, lines 39- 67).

Brown does not explicitly disclose a template manager for creating customized template based data entry screens for use by said first module; wherein the function of said first module is directed by said customized template based data entry screens; and wherein at least one of said customized template based data entry screens allows a user to correlate a set of modifiers with a body part.

However, these features are known in the art, as evidenced by Campbell. In particular, Campbell suggests a template manager for creating customized template based data entry screens for use by said first module (See Campbell, Col.4, lines 19-67); wherein the function of said first module is directed by said customized template based data entry screens (See Campbell, Col.4, lines 19-67); and wherein at least one of said customized template based data entry screens allows a user to correlate a set of modifiers with a body part (See Campbell, Fig.7, Col.15, lines 55-67 to Col.16, line 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Campbell within the system of Brown with the

motivation of providing the system software displays interactive user interface screens for conducting an interactive medical exam, generating diagnoses of abnormal observations, and managing a treatment protocol (See Campbell, Col.1, lines 62-67).

Brown and Campbell disclose all the limitations above. However, the combination of Brown and Campbell does not explicitly disclose a means for receiving medical data through remote transmission, a means for receiving customized information, and a means for creating a natural language report and a data point-based searchable database from said medical information, wherein said natural language report has a syntax and a structure (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the teachings of Campbell and Brown with the motivation of providing a number of enhanced features including: mass customization of medical protocols; time-and-event driven medical treatment plan; risk-stratified triage and medical intervention system; self-selected synchronized database-linked medical monitoring system; pharmaco-economic analysis system; creation and self-selection of musical alarms for monitoring; streaming video and pictorial representation on monitoring device; a system for promoting enhanced validity in pharmaceuticals and drug package inserts; a system for mass customizing information device functions and features; and a dynamic, mass customizable, interactive screen and voice system for monitoring (See Kehr, Page 1, Paragraph 0006).

As per claim 20, Kehr discloses wherein said template manager additionally comprises means for editing all aspects of said customized template based data entry screens said natural language report, and said data points in said data point-based searchable database (See Kehr, Page 6, Paragraphs 0083-0084).

As per claim 24, Kehr discloses wherein said template manager has a means for controlling the syntax and structure of said natural language report (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132).

The motivation for combining the respective teachings of Brown, Campbell, and Kehr are as discussed above in the rejection of claim 2, and incorporated herein.

As per claim 25 Kehr discloses wherein said searchable database has a plurality of items, and wherein each such item has a unique identifier, and wherein said customized information further comprises said unique identifier (See Kehr, Page 6, Paragraph 0083).

As per claim 35, Brown discloses a system for creating customized medical data input screens comprising: a handheld computing device, said handheld computing device (See Brown, Fig.16; Col.28, lines 39-67).

Brown does not disclose having loaded in memory a computer module for gathering patient medical information, said first module having a customized medical data entry screen, said screen allowing a user to input patient medical information.

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggests having loaded in memory a computer module for gathering patient medical information, said first module having a customized medical data entry screen, said screen allowing a user to input patient medical information (See Campbell, Col.4, lines 19-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Campbell within the system of Brown with the motivation of providing the system software displays interactive user interface screens for conducting an interactive medical exam, generating diagnoses of abnormal observations, and managing a treatment protocol (See Campbell, Col.1, lines 62-67).

Brown and Campbell disclose all the limitations above. The combination of Brown and Campbell does not explicitly disclose a means for creating a natural language report and a searchable database from said medical information; a second module having a means for customizing said screen, said natural language report, and said searchable database; and wherein said customization means is template based.

However, these features are known in the art, as evidenced by Campbell. In particular, Campbell suggests a means for creating a natural language report and a searchable database from said medical information (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132); a second module having a means for customizing said screen, said natural language report, and said searchable database (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132); and

wherein said customization means is template based (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the teachings of Campbell and Brown with the motivation of providing a number of enhanced features including: mass customization of medical protocols; time-and-event driven medical treatment plan; risk-stratified triage and medical intervention system; self-selected synchronized database-linked medical monitoring system; pharmaco-economic analysis system; creation and self-selection of musical alarms for monitoring; streaming video and pictorial representation on monitoring device; a system for promoting enhanced validity in pharmaceuticals and drug package inserts; a system for mass customizing information device functions and features; and a dynamic, mass customizable, interactive screen and voice system for monitoring (See Kehr, Page 1, Paragraph 0006).

As per claim 36, Brown discloses a system for gathering and managing patient medical data, comprising: a handheld computing device, said handheld computing device having a means of gathering specified regulatory data and having loaded in memory a computer module for gathering patient medical information, said module having a customized medical data entry screen, said screen allowing a user to input patient medical information (See Brown, Fig.16; Col.28, lines 39-67).

Brown does not explicitly disclose a matrix within said data entry screen, said matrix allowing a user to correlate a body part with a set of modifiers; a second module

having a means for customizing said customized medical data entry screen and said matrix;

However, these features are known in the art, as evidenced by Campbell. In particular, Campbell suggests a matrix within said data entry screen, said matrix allowing a user to correlate a body part with a set of modifiers (See Campbell, Fig.7, Col.15, lines 55-67 to Col.16, line 12); a second module having a means for customizing said customized medical data entry screen and said matrix (See Campbell, Fig.7, Col.15, lines 55-67 to Col.16, line 12).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Campbell within the system of Brown with the motivation of providing the system software displays interactive user interface screens for conducting an interactive medical exam, generating diagnoses of abnormal observations, and managing a treatment protocol (See Campbell, Col.1, lines 62-67).

Brown and Campbell disclose all the limitations above. The combination of Brown and Campbell does not explicitly disclose wherein said customization means is template based (See Kehr, Fig.28, Page 43, Paragraphs 0388-0392; Paragraphs 0138; 0132).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kehr within the teachings of Campbell and Brown with the motivation of providing a number of enhanced features including: mass customization of medical protocols; time-and-event driven medical treatment plan; risk-stratified triage and medical intervention system; self-selected synchronized database-

linked medical monitoring system; pharmacoeconomic analysis system; creation and self-selection of musical alarms for monitoring; streaming video and pictorial representation on monitoring device; a system for promoting enhanced validity in pharmaceuticals and drug package inserts; a system for mass customizing information device functions and features; and a dynamic, mass customizable, interactive screen and voice system for monitoring (See Kehr, Page 1, Paragraph 0006).

Claims 19, 21, 23, recite the underlying process of the elements of claims 4-6 and 15, and respectively. As the various elements of claims 4-6 and 15 have been shown to be either disclosed by or obvious in view of the collective teachings of Brown, Campbell, and Kehr, it is readily apparent that the apparatus disclosed by the applied prior art performs the recited underlying functions. As such, the limitations recited in claims 19, 21, 23, are rejected for the same reasons given above for system claims 4-6 and 15, and incorporated herein.

Response to Arguments

4. Applicant's arguments filed 10/08/08 with respect to claims 2, 4, 5-6, 8, 13-16, 19, 20-21, 23-25, and 35-36 have been fully considered but they are not persuasive.
(A) At pages 1-6 of the 10/08/08 response, Applicant's argues the followings:

(i) The Examiner must consider the following rebuttal evidence including such secondary considerations as commercial success, long-felt but unsolved needs and failure of others.

(ii) The Declaration under 37 C.F.R 1.132 with an Attached Exhibit A regarding His credentials.

(B) At page 1 of the Remarks filed on 10/08/08, Applicant's submitted the statements herein upon the references and in order to facilitate a better understanding of the differences that are expressed in the claims, certain details of distinction between the references and the present invention by presenting the Attached as Exhibit A.

With respect to Applicant's Remarks, the Examiner respectfully submitted that the Affidavit of Declaration under 37 C.F.R 1.132 filed on 10/08/08 is insufficient to overcome the rejection of claims 2, 4, 5-6, 8, 13-16, 19, 20-21, 23-25, and 35-36 based upon the rejection as to set forth in the previous Office Action because: Applicant's fails to show proper evidence regarding His invention.

1. It include(s) statements which amount to an affirmation that the affiant has never seen the claimed subject matter before. This is not relevant to the issue of nonobviousness of the claimed subject matter and provides no objective evidence thereof. See MPEP § 716.

2. It include(s) statements which amount to an affirmation that the claimed subject matter functions as it was intended to function. This is not relevant to the issue of nonobviousness of the claimed subject matter and provides no objective evidence

thereof. See MPEP § 716.

3. It refer(s) only to the system described in the above referenced application and not to the individual claims of the application. Thus, there is no showing that the objective evidence of nonobviousness is commensurate in scope with the claims. See MPEP § 716.

4. It states that the claimed subject matter solved a problem that was long standing in the art. However, there is no showing that others of ordinary skill in the art were working on the problem and if so, for how long. In addition, there is no evidence that if persons skilled in the art who were presumably working on the problem knew of the teachings of the above cited references, they would still be unable to solve the problem. See MPEP § 716.04.

5. In view of the foregoing, when all of the evidence is considered, the totality of the rebuttal evidence of nonobviousness fails to outweigh the evidence of obviousness. Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated

from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Examiner, Art Unit 3687

January 30, 2009

/Matthew S Gart/

Supervisory Patent Examiner, Art Unit 3687